



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

[REDACTED]
Docket No. 7236-16
NOV 28 2017

[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 September 2017. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies.

You enlisted in the Marine Corps and began a period of active duty on 6 March 1996. On 28 February 1997, you were arrested by civilian authorities and was charged with possession and alleged sale of lysergic acid diethylamide (LSD). On 14 March 1997, you were released from being confined by civilian authorities and the charges were dropped in civilian court. As a result of the foregoing, an administrative discharge board (ADB) was held on 11 August 1997 and the ADB recommended you be separated with an Other Than Honorable (OTH) characterization of service. However, the ADB also recommended a suspension of your discharge providing you do not commit further misconduct during a period of twelve months. On 21 August 1997, you received nonjudicial punishment (NJP) for being in an unauthorized absence (UA) status from your assigned fire watch duty. The Board noted that you appealed your NJP and it was denied on 8 September 1997. On 12 September 1997, your Commanding Officer concurred with the findings of the ADB. The Board concurred with the Staff Judge Advocate comments, specifically, that the OTH discharge is warranted and consistent with the Marine Corps zero tolerance of drugs policy and even though the ADB recommended a twelve month suspension, the NJP you received was cause to vacate the suspension. On 1 October 1997, you were discharged with an OTH characterization of service.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. The Board carefully weighed all potentially mitigating factors, such as your desire to upgrade your character of service and rationale for your misconduct. In addition, the Board considered your contention that the arresting police officer had a personal vendetta towards you and that he fabricated the drug evidence allegedly found on you at the time of your arrest. However, the Board felt that you provided insufficient evidence to support your contention that the drugs were planted on you by the arresting officer. The Board concluded these factors were not sufficient to warrant relief in your case, because no error or injustice was identified in its review of your record. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken at this time. You are entitled to have the Board reconsider its decision upon the submission of new and material evidence. New evidence is evidence not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

A large black rectangular redaction box covering the signature of the Executive Director.

Executive Director